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9 Proposed counsel to Official Committee of Unsecured Creditors

10
11 UNITED STATES BANKRUPTCY COURT
12 DISTRICT OF NEVADA
13

14 IN RE:

15 KONA GOLD, LLC

16 Debtor.

17 Case No: BK-N-17-50562-btb
18 Chapter 11

19 COMMITTEE'S RESPONSE TO THE
20 MOTION TO EMPLOY THE LAW
21 OFFICES OF J. CRAIG DEMETRAS

22 Hearing Date: August 23, 2017

23 Hearing Time: 10:00 a.m.

24 Est. Time: 20 minutes

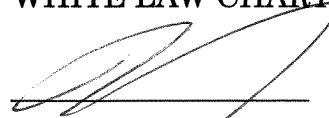
25 COMES NOW THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS ("Com-
26 mittee"), by and through its proposed counsel, White Law Chartered, who condition-
27 ally objects to the Debtor's Motion to hire the Law Offices of J. Craig Demetras ("Mo-
28 tion"), on the grounds that the Committee cannot determine if Mr. Demetras is disin-
interested unless and until Debtor responds to the Committee's July 9, 2017 discovery
request.

In support of this Objection, the Committee relies upon 11 USC §1103(a) and FRBP
2014(a), the below Points and Authorities, the Declaration of Richard LaPrairie, filed
separately herewith, and the files and records in this case.

Dated this 8th day of August, 2017.

Submitted by:

WHITE LAW CHARTERED



John White, Esq.

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POINTS AND AUTHORITIES

FACTS

Case Overview This Debtor's Schedules show \$876,700 in assets and \$2,758,773.70 in liabilities. See page 13 of Dkt 10. Its main assets are two parcels of real property in Mound House, Nevada, being 115 (APN 016-171-03) and 139 (APN 016-171-04) State Route 341. The Schedules place a total value of \$500,000 on 115 and 139 State Route 341, making these two parcels Debtor's main asset. See Schedule D (Dkt 1). Debtor's largest creditor by far is Jin De Land's \$2,000,000 claim, listed as secured by 115 and 139 State Route 341. Schedule D (Dkt 1). Neither the Schedules nor the Statement of Affairs give any information concerning Jin De Land.

Debtor's liabilities include \$6,783 from one Garret Weyand, being an advance to the Debtor for Mr. Demetras' cost and fee retainer (see Form 2030 at 28 of Dkt 10). Mr. Weyand also has a \$40,851 general unsecured claim (Page 10 of Dkt 1) and is a 5% owner of Debtor. See Motion, page 3. Liabilities also include \$12,000 to Demetras and O'Neill (Page 10 of Dkt 1) and \$89,304 to Steve Davis (Dkt 1, page 14), Debtor's manager. Debtor apparently intends to reorganize. See Motion, Paragraph 4 (Dkt 32, page 2).

Mr. Demetras may not be disinterested.

As indicated, according to the Schedules Debtor owns 115 and 139 State Route 341 in Mound House, Lyon County, Nevada.

115 Hwy 341. However, according to the Lyon County Assessor, only 139 hwy 341 (APN 016-171-03) is owned by the Debtor. According to the Lyon county assessor, 115 Hwy 341 (APN 016-171-04) is a single family residence which is now and since February 2014 has been owned by MH Equipment, 315 California Ave. #94, Reno NV 89509 rather than by Debtor. According to the Nevada Secretary of State, Steve Davis is President and Craig Demetras is resident agent of MH Equipment, a revoked Nevada

Corporation. The Lyon County Recorder shows that foreclosure proceeding were instituted against MH Equipment on January 6, 2016 (Doc # 545347). Undersigned was unable to ascertain the disposition of that foreclosure from the Recorder's site. The assessor's site carries a warning "This is not a complete History and should not be used in place of a title search."

La Canada Gold and Silver Mining, LLC. The Nevada Secretary of States shows another Nevada LLC, La Canada Gold and Silver Mining, LLC. It is shown as a corporation in good standing. Debtor's manager, Steve Davis is listed as resident agent and Garrett Weyand, a creditor in this case, is listed as manager. Movant states that La Canada is a 16% owner of Debtor. See Motion, page 3.

Kona Gold Mining Corporation. The Nevada Secretary of State shows another corporation, Kona Gold Mining Corporation., a defaulted corporation. Mr. Demetras is listed as resident agent and Steven Davis is listed as President. Debtor, Kona Gold LLC listed itself as a subsidiary of Kona Gold Mining Corporation in its Web Site (<http://docslide.com.br/documents/20160721-summary-kona-gold-mining-v1-no-number.html>). See Exhibit 2 to Mr. LaPrairie's Declaration, filed herewith. That web site was taken down sometime after this case was filed. See LaPrairie Declaration, paragraph 4.

Because of these and similar questions, the Committee is unable to determine whether Mr. Demetras is disinterested. On July 9, 2017, the Committee sent Mr. Demetras a request for information which would assist the Committee in making this determination. See Exhibit 1 to Mr. LaPrairie's Declaration. However, no response to this request has yet been received.

Argument

11 USC §1106 requires a Chapter 11 Debtor to perform the Debtor's duty under 11 USC § 704(a)(7), being to furnish requested information to a party in interest. The Committee is a party in interest. 11 USC § 1109(b). The information requested by the Committee is necessary to determine whether Mr. Demetras is disqualified as counsel

1 for Debtor due to disinterestedness. 11 USC § 327(a) requires that counsel for the
2 Debtor be disinterested. 11 USC § 1103(c)(2) authorizes the Committee to investigate
3 “. . . any . . . matter relevant to the case . . .”

4 Therefore Debtor is required to furnish the information requested. Further, as that
5 information is needed in order for the Committee to reasonably formulate a response
6 to the Motion, the hearing on the Motion should be set off until at least 7 days after
7 Debtor supplies the information requested in the Committee’s Request for Documents.

8 Dated this 8th day of August, 2017.

Submitted by:

9 WHITE LAW CHARTERED

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13 John White, Esq.
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CERTIFICATE OF SERVICE

On August 8, 2017 I served a true and correct copy of the COMMITTEE'S RESPONSE TO THE MOTION TO EMPLOY THE LAW OFFICES OF J. CRAIG DEMETRAS by **United States mail, first class postage fully prepaid** to the persons as listed below:

U.S. Trustee-RN-11
300 Booth Street, STE 3009
Reno, NV 89509-1362

Karen M. Ayabe Kern and Associates,
Ltd. 5421 Kietzke Lane, Suite 200
Reno, NV 89511

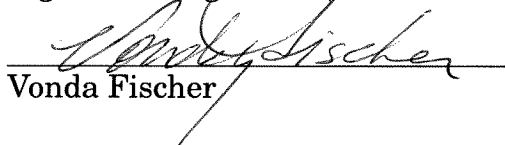
J Craig Demetras
230 E. Liberty St
Reno, NV 89501-2211

Official Committee of Unsecured Creditors
1595 Ashbury Lane
Reno, NV 89523

Kona Gold
316 California Avenue #94
Reno, NV 89501

I declare under penalty of perjury that the foregoing is true and correct.

Signed on August 8th, 2017.


Vonda Fischer